

SECOND REGULAR SESSION
[PERFECTED WITH PERFECTING AMENDMENT]

HOUSE BILL NO. 1726

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES WALTON, HAYWOOD, VILLA, SHELTON, WILSON (42),
CURLS, BLAND (Co-sponsors), JOHNSON (61), BOWMAN, ABEL, CARNAHAN AND BOYKINS.

Read 1st time January 30, 2002, and 1000 copies ordered printed.

Read 2nd time January 31, 2002, and referred to the Committee on Education - Elementary and Secondary, February 14, 2002.

Reported from the Committee on Education - Elementary and Secondary, April 8, 2002, with recommendation that the bill Do Pass.

Taken up for Perfection April 17, 2002. Bill ordered Perfected and printed, as amended.

TED WEDEL, Chief Clerk

3647L.01P

AN ACT

To repeal sections 160.261 and 167.161, RSMo, and to enact in lieu thereof four new sections relating to discipline in public schools.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 160.261 and 167.161, RSMo, are repealed and four new sections
2 enacted in lieu thereof, to be known as sections 160.261, 160.730, 167.161 and 1, to read as
3 follows:

160.261. 1. The local board of education of each school district shall clearly establish
2 a written policy of discipline, including the district's determination on the use of corporal
3 punishment and the procedures in which punishment will be applied. A written copy of the
4 district's discipline policy, **bullying policy**, and corporal punishment procedures, if applicable,
5 shall be provided to the pupil and parent or legal guardian of every pupil enrolled in the district
6 at the beginning of each school year and also made available in the office of the superintendent
7 of such district, during normal business hours, for public inspection. All employees of the
8 district shall annually receive instruction related to the specific contents of the policy of
9 discipline and any interpretations necessary to implement the provisions of the policy in the
10 course of their duties, including but not limited to approved methods of dealing with acts of
11 school violence, disciplining students with disabilities and instruction in the necessity and

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

12 requirements for confidentiality.

13 2. The **discipline** policy shall require school administrators to report acts of school
14 violence to teachers and other school district employees with a need to know. For the purposes
15 of this chapter or chapter 167, RSMo, "need to know" is defined as school personnel who are
16 directly responsible for the student's education or who otherwise interact with the student on a
17 professional basis while acting within the scope of their assigned duties. As used in this section,
18 the phrase "act of school violence" or "violent behavior" means the exertion of physical force by
19 a student with the intent to do serious physical injury as defined in subdivision (6) of section
20 565.002, RSMo, to another person while on school property, including a school bus in service
21 on behalf of the district, or while involved in school activities. The **discipline** policy shall at a
22 minimum require school administrators to report, as soon as reasonably practical, to the
23 appropriate law enforcement agency any of the following felonies, or any act which if committed
24 by an adult would be one of the following felonies:

- 25 (1) First degree murder under section 565.020, RSMo;
- 26 (2) Second degree murder under section 565.021, RSMo;
- 27 (3) Kidnapping under section 565.110, RSMo;
- 28 (4) First degree assault under section 565.050, RSMo;
- 29 (5) Forcible rape under section 566.030, RSMo;
- 30 (6) Forcible sodomy under section 566.060, RSMo;
- 31 (7) Burglary in the first degree under section 569.160, RSMo;
- 32 (8) Burglary in the second degree under section 569.170, RSMo;
- 33 (9) Robbery in the first degree under section 569.020, RSMo;
- 34 (10) Distribution of drugs under section 195.211, RSMo;
- 35 (11) Distribution of drugs to a minor under section 195.212, RSMo;
- 36 (12) Arson in the first degree under section 569.040, RSMo;
- 37 (13) Voluntary manslaughter under section 565.023, RSMo;
- 38 (14) Involuntary manslaughter under section 565.024, RSMo;
- 39 (15) Second degree assault under section 565.060, RSMo;
- 40 (16) Sexual assault under section 566.040, RSMo;
- 41 (17) Felonious restraint under section 565.120, RSMo;
- 42 (18) Property damage in the first degree under section 569.100, RSMo;
- 43 (19) The possession of a weapon under chapter 571, RSMo;
- 44 (20) Child molestation in the first degree pursuant to section 566.067, RSMo;
- 45 (21) Deviate sexual assault pursuant to section 566.070, RSMo;
- 46 (22) Sexual misconduct involving a child pursuant to section 566.083, RSMo; [or]
- 47 (23) Sexual abuse pursuant to section 566.100, RSMo; **or**

48 **(24) Making a terroristic threat, pursuant to section 574.115, RSMo;**

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50 committed on school property, including but not limited to actions on any school bus in service
51 on behalf of the district or while involved in school activities. The **discipline** policy shall require
52 that any portion of a student's individualized education program that is related to demonstrated
53 or potentially violent behavior shall be provided to any teacher and other school district
54 employees who are directly responsible for the student's education or who otherwise interact with
55 the student on an educational basis while acting within the scope of their assigned duties. The
56 **discipline** policy shall also contain the consequences of failure to obey standards of conduct set
57 by the local board of education, and the importance of the standards to the maintenance of an
58 atmosphere where orderly learning is possible and encouraged.

59 3. The **discipline** policy shall provide for a suspension for a period of not less than one
60 year, or expulsion, for a student who is determined to have brought a weapon to school,
61 including but not limited to the school playground or the school parking lot, brought a weapon
62 on a school bus or brought a weapon to a school activity whether on or off of the school property
63 in violation of district policy, except that:

64 (1) The superintendent, or in a school district with no high school, the principal of the
65 school which such child attends may modify such suspension on a case-by-case basis; and

66 (2) This section shall not prevent the school district from providing educational services
67 in an alternative setting to a student suspended under the provisions of this section.

68 4. For the purpose of this section, the term "weapon" shall mean a firearm as defined
69 under 18 U.S.C. 921 and the following items, as defined in section 571.010, RSMo: a blackjack,
70 a concealable firearm, an explosive weapon, a firearm, a firearm silencer, a gas gun, a knife,
71 knuckles, a machine gun, a projectile weapon, a rifle, a shotgun, a spring gun or a switchblade
72 knife; except that this section shall not be construed to prohibit a school board from adopting a
73 policy to allow a Civil War reenactor to carry a Civil War era weapon on school property for
74 educational purposes so long as the firearm is unloaded. The local board of education shall
75 define weapon in the discipline policy. Such definition shall include the weapons defined in this
76 subsection but may also include other weapons.

77 5. All school district personnel responsible for the care and supervision of students are
78 authorized to hold every pupil strictly accountable for any disorderly conduct in school or on any
79 property of the school, on any school bus going to or returning from school, during
80 school-sponsored activities, or during intermission or recess periods.

81 6. Teachers and other authorized district personnel in public schools responsible for the
82 care, supervision, and discipline of schoolchildren, including volunteers selected with reasonable
83 care by the school district, shall not be civilly liable when acting in conformity with the

84 established policy of discipline developed by each board under this section, or when reporting
85 to his or her supervisor or other person as mandated by state law, acts of school violence or
86 threatened acts of school violence, within the course and scope of the duties of the teacher,
87 authorized district personnel or volunteer, when such individual is acting in conformity with the
88 established policies developed by the board. Nothing in this section shall be construed to create
89 a new cause of action against such school district, or to relieve the school district from liability
90 for the negligent acts of such persons.

91 7. Each school board shall define in its discipline policy acts of violence and any other
92 acts that constitute a serious violation of that policy. Acts of violence as defined by school
93 boards shall include but not be limited to exertion of physical force by a student with the intent
94 to do serious bodily harm to another person while on school property, including a school bus in
95 service on behalf of the district, or while involved in school activities. School districts shall for
96 each student enrolled in the school district compile and maintain records of any serious violation
97 of the district's discipline policy. Such records shall be made available to teachers and other
98 school district employees with a need to know while acting within the scope of their assigned
99 duties, and shall be provided as required in section 167.020, RSMo, to any school district in
100 which the student subsequently attempts to enroll. **The discipline policy may address the issue**
101 **of notification of students and parents of students concerning credible threats to commit**
102 **any of the acts enumerated in subsection 2 of this section. School districts may release to**
103 **students and parents of students a description of the actions taken to address the threat,**
104 **pending final resolution of the situation by disciplinary or judicial action, as long as the**
105 **release of such information is consistent with any federal law that may be applicable,**
106 **including the Family Educational and Privacy Rights Act and the Individuals with**
107 **Disabilities Education Act.**

108 8. Spanking, when administered by certificated personnel of a school district in a
109 reasonable manner in accordance with the local board of education's written policy of discipline,
110 is not abuse within the meaning of chapter 210, RSMo. The provisions of sections 210.110 to
111 210.165, RSMo, notwithstanding, the division of family services shall not have jurisdiction over
112 or investigate any report of alleged child abuse arising out of or related to any spanking
113 administered in a reasonable manner by any certificated school personnel pursuant to a written
114 policy of discipline established by the board of education of the school district. Upon receipt of
115 any reports of child abuse by the division of family services pursuant to sections 210.110 to
116 210.165, RSMo, which allegedly involves personnel of a school district, the division of family
117 services shall notify the superintendent of schools of the district or, if the person named in the
118 alleged incident is the superintendent of schools, the president of the school board of the school
119 district where the alleged incident occurred. If, after an initial investigation, the superintendent

of schools or the president of the school board finds that the report involves an alleged incident of child abuse other than the administration of a spanking by certificated school personnel pursuant to a written policy of discipline or a report made for the sole purpose of harassing a public school employee, the superintendent of schools or the president of the school board shall immediately refer the matter back to the division of family services and take no further action. In all matters referred back to the division of family services, the division of family services shall treat the report in the same manner as other reports of alleged child abuse received by the division. If the report pertains to an alleged incident which arose out of or is related to a spanking administered by certificated personnel of a school district pursuant to a written policy of discipline or a report made for the sole purpose of harassing a public school employee, a notification of the reported child abuse shall be sent by the superintendent of schools or the president of the school board to the juvenile officer of the county in which the alleged incident occurred. The report shall be jointly investigated by the juvenile officer or a law enforcement officer designated by the juvenile officer and the superintendent of schools or, if the subject of the report is the superintendent of schools, by the juvenile officer or a law enforcement officer designated by the juvenile officer and the president of the school board or such president's designee. The investigation shall begin no later than forty-eight hours after notification from the division of family services is received, and shall consist of, but need not be limited to, interviewing and recording statements of the child and the child's parents or guardian within two working days after the start of the investigation, of the school district personnel allegedly involved in the report, and of any witnesses to the alleged incident. The juvenile officer or a law enforcement officer designated by the juvenile officer and the investigating school district personnel shall issue separate reports of their findings and recommendations after the conclusion of the investigation to the school board of the school district within seven days after receiving notice from the division of family services. The reports shall contain a statement of conclusion as to whether the report of alleged child abuse is substantiated or is unsubstantiated. The school board shall consider the separate reports and shall issue its findings and conclusions and the action to be taken, if any, within seven days after receiving the last of the two reports. The findings and conclusions shall be made in substantially the following form:

(1) The report of the alleged child abuse is unsubstantiated. The juvenile officer or a law enforcement officer designated by the juvenile officer and the investigating school board personnel agree that the evidence shows that no abuse occurred;

(2) The report of the alleged child abuse is substantiated. The juvenile officer or a law enforcement officer designated by the juvenile officer and the investigating school district personnel agree that the evidence is sufficient to support a finding that the alleged incident of child abuse did occur;

(3) The issue involved in the alleged incident of child abuse is unresolved. The juvenile officer or a law enforcement officer designated by the juvenile officer and the investigating school personnel are unable to agree on their findings and conclusions on the alleged incident.

9. The findings and conclusions of the school board shall be sent to the division of family services. If the findings and conclusions of the school board are that the report of the alleged child abuse is unsubstantiated, the investigation shall be terminated, the case closed, and no record shall be entered in the division of family services' central registry. If the findings and conclusions of the school board are that the report of the alleged child abuse is substantiated, the division of family services shall report the incident to the prosecuting attorney of the appropriate county along with the findings and conclusions of the school district and shall include the information in the division's central registry. If the findings and conclusions of the school board are that the issue involved in the alleged incident of child abuse is unresolved, the division of family services shall report the incident to the prosecuting attorney of the appropriate county along with the findings and conclusions of the school board, however, the incident and the names of the parties allegedly involved shall not be entered into the central registry of the division of family services unless and until the alleged child abuse is substantiated by a court of competent jurisdiction.

10. Any superintendent of schools, president of a school board or such person's designee or juvenile officer who knowingly falsifies any report of any matter pursuant to this section or who knowingly withholds any information relative to any investigation or report pursuant to this section is guilty of a class A misdemeanor.

11. The local school board of each school district shall clearly establish a written policy prohibiting bullying by any student that shall be enforced uniformly, fairly, and consistently for all students. For the purposes of this section, bullying shall mean any written or verbal expression, or physical act or gesture, or a pattern thereof, that is intended to cause distress upon one or more students in the school, on school grounds, in school vehicles, at a designated school bus stop, or at school activities or sanctioned events. The department of elementary and secondary education shall have the authority to promulgate any rules necessary to comply with the provisions of this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to chapter 536, RSMo.

12. School districts shall consider the inclusion of character education as part of an age-appropriate curriculum if the district board determines that character education would have a positive effect on discipline in any or all of its schools. The department of elementary and secondary education shall provide technical assistance to school districts seeking grant funds to implement a character education program.

160.730. 1. There is hereby established in the department of elementary and secondary education the "Motivating Parents and Children" (MPAC) program. This program shall be a pilot program for school districts to provide parental involvement services to families with compulsory school age children who are considered "at-risk" students by the school district, as that term is defined in section 167.273, RSMo.

2. Subject to appropriation, the department of elementary and secondary education shall provide grants to six qualifying school districts per year to provide services to families with at-risk students. Three of the qualifying school districts shall be rural districts, and three shall be urban or metropolitan districts. The department of elementary and secondary education shall establish or provide the following as part of the services of this program:

(1) A statewide program coordinator, to be employed by the department of elementary and secondary education;

(2) Development and implementation of a program of family support services, which shall also be available to home school students;

(3) Program requirement that parents or guardians shall spend a day in school with their child if the child violates any major disciplinary rules for which a record of the violation becomes part of the student's permanent school district record, other than suspension or expulsion;

(4) Upon school board approval, the establishment of an incentive program for children whose parents attend parent-teacher association meetings or parenting classes.

(5) Establishment of a program using volunteers to provide child care services for parents who attend parenting classes or attend after-school or evening programs related to parenting.

3. The department of elementary and secondary education shall develop criteria to determine which school districts qualify for the services of this program. The commissioner shall have the authority to promulgate any rules necessary to implement the provisions of this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to chapter 536, RSMo.

4. There is hereby established in the state treasury the "Motivating Parents and Children Fund", which shall consist of all moneys appropriated to the fund and all donations, bequests, or other gifts of any kind deposited in the fund. The fund shall be administered by the department of elementary and secondary education for the purpose of funding the grants described in this section. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the fund shall not be transferred to the general

37 **revenue fund at the end of the biennium. All interest and moneys earned on such fund**
38 **shall be credited to the fund. This section of this act is subject to appropriation and shall**
39 **not take effect unless the general assembly appropriates moneys in advance to fund said**
40 **section.**

167.161. 1. The school board of any district, after notice to parents or others having
2 custodial care and a hearing upon charges preferred, may suspend or expel a pupil for conduct
3 which is prejudicial to good order and discipline in the schools or which tends to impair the
4 morale or good conduct of the pupils. In addition to the authority granted in section 167.171,
5 a school board may authorize, by general rule, the immediate removal of a pupil upon a finding
6 by the principal, superintendent, or school board that the pupil poses a threat of harm to such
7 pupil or others, as evidenced by the prior conduct of such pupil. Prior disciplinary actions shall
8 not be used as the sole basis for removal, suspension or expulsion of a pupil. Removal of any
9 pupil who is a student with a disability is subject to state and federal procedural rights. At the
10 hearing upon any such removal, suspension or expulsion, the board shall consider the evidence
11 and statements that the parties present and may consider records of past disciplinary actions,
12 criminal court records or juvenile court records consistent with other provisions of the law, or
13 the actions of the pupil which would constitute a criminal offense. The board may provide by
14 general rule not inconsistent with this section for the procedure and conduct of such hearings.
15 After meeting with the superintendent or his designee to discuss the expulsion, the parent,
16 custodian or the student, if at least eighteen years of age, may, in writing, waive any right to a
17 hearing before the board of education.

18 2. The school board of any district, after notice to parents or others having custodial care
19 and a hearing upon the matter, may suspend a pupil upon a finding that [the pupil has been
20 charged, convicted or pled guilty in a court of general jurisdiction for the commission of a]:

21 **(1) Such pupil has been convicted of a felony criminal violation of state or federal**
22 **law; or**

23 **(2) An indictment or information has been filed alleging that the pupil has**
24 **committed a felony criminal violation of state or federal law to which there has been no**
25 **final judgment; or**

26 **(3) A petition has been filed pursuant to section 211.091, RSMo, alleging that the**
27 **pupil has committed an act which if committed by an adult would be a felony criminal**
28 **violation of state or federal law to which there has been no final judgment; or**

29 **(4) The pupil has been adjudicated to have committed an act which if committed**
30 **by an adult would be a felony criminal violation of state or federal law. At a hearing required**
31 **by this subsection, the board shall consider statements that the parties present. The board may**
32 **provide for the procedure and conduct of such hearings.**

33 3. The school board shall make a good-faith effort to have the parents or others having
34 custodial care present at any such hearing. Notwithstanding any other provision of law to the
35 contrary, student discipline hearings or proceedings related to the rights of students to attend
36 school or to receive academic credit shall not be required to comply with the requirements
37 applicable to contested case hearings as provided in chapter 536, RSMo, provided that
38 appropriate due process procedures shall be observed which shall include the right for a trial de
39 novo by the circuit court.

**Section 1. 1. No employee of any public school or charter school within this state
2 shall perform a strip search, as that term is defined in section 544.193, RSMo, of any
3 student of any such school. For the purposes of this section, the term "employee" shall
4 include all temporary and part-time employees of such public schools and charter schools.**

**5 2. Any employee of a public school or charter school who violates the provisions of
6 this section shall be immediately suspended without pay, pending an evidentiary hearing
7 when such employee is entitled by statute or contract to such hearing.**